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Paper No. 27

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OFFICE OF PETITIONS

In re Application of :
Bly et al. : DECISION ON PETITION
Application No. 09/990,911 : UNDER 37 CFR 1.137(b)
Filed: November 14, 2001 :
Attorney Docket No. 65678-0042 :
:

This is in response to the "SUPPLEMENT TO EARLIER FILED REQUEST TO RESCIND PREVIOUS NONPUBLICATION REQUEST AND PROVISIONAL PETITION FOR WITHDRAWAL OF HOLDING OF ABANDONMENT," filed November 28, 2003. This paper is being treated under 37 CFR 1.137(b), pursuant to 37 CFR 1.137(f).

The petition is DISMISSED AS MOOT.

Any request for reconsideration must be filed within TWO (2) MONTHS of the mail date of this decision. Extensions of time under § 1.136(a) are permitted.

Petitioner requests that the above-identified application be revived pursuant to § 1.137(b) and § 1.137(f). Petitioner states that the instant application is the subject of a subsequently-filed foreign or international application¹. Moreover, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the foreign or international application².

However, a review of the application as filed does not reveal that a nonpublication request was submitted on filing of this application. No Request and Certification under 35 U.S.C. 122(b)(2)(B)(i) is present in the application. Accordingly, the instant application is not subject to becoming abandoned for failure to notify the Office within 45 days subsequent to the filing of a foreign or international application requiring publication.

¹ PCT/US02/36603 was filed on November 14, 2002.

² A request to rescind previous nonpublication request was received in the Office on December 30, 2002; however, it was not accompanied by a Notice of Foreign Filing.

In fact, this application was published on June 20, 2002.

In view of the fact that this application is not abandoned, the request for revival pursuant to § 1.137(b) and § 1.137(f) is moot.

The application is being forwarded to Technology Center 3621 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0309.


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Office of Petitions